

### **REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed June 17, 2005. At the time of the Office Action, Claims 1-5 and 7-33 were pending in this Application. Claims 1-5, 7-14, 17-19, 22-25, 28, 30, 31 and 33 were rejected. Claims 15, 16, 20, 21, 26, 27, 29, and 32 were objected to. Claims 1, 12, 14, 15, 18, 23, 25, and 26 have been amended to further define various features of Applicants' invention. Claims 13 and 24 have been cancelled. Claim 34 has been added. Applicants respectfully request reconsideration and favorable action in this case.

#### **Claim Objections**

Claims 15, 16, 21, 26, and 27 were objected to by the Examiner under 37 C.F.R. 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. Applicants amend Claims 15 and 26 to overcome these objections.

#### **Priority**

Applicants submit herewith an original certified copy of priority German application number 101 07 169.8 filed February 15, 2001.

#### **Rejections under 35 U.S.C. § 112**

Claim 18 was rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claim 12 which is the base claim of Claim 18 to overcome this rejection.

**Rejections under 35 U.S.C. §103**

Claims 1-5, 7, 9-12, 17, 19 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,506,605 issued to Fred Mitchell Allen et al. ("Allen") in view of German Patent Number DE 19924083 filed by Frank et al. ("Frank"), and further in view of U.S. Patent 4,885,929 issued to Riichiro Kasahara et al. ("Kasahara"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Allen in view of Frank and Kasahara, as applied to Claims 1-5, 7, 9-12, 17, 19, and 22 above, and further in view of U.S. Patent 5,215,554 issued Paul W. Kramer et al. ("Kramer"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

Claims 13, 14, 23-25, 28, 30, 31 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Allen in view of Frank and Kasahara, as applied to Claims 1-5, 7, 9-12, 17, 19 and 22 above, and further in view of U.S. Patent 5,889,198 issued to Norbert Reitmeier et al. ("Reitmeier"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

All independent method claims include the limitation that in a first stage, the ozone sensors are kept at the same or at different operating temperatures and in a second stage least one operating temperature on at least one ozone sensor is adjusted. Independent claim 1 includes means for independently heating at least the first and second ozone sensor.

None of the cited prior art discloses such a limitation. With respect to former claim 13, the Examiner stated that Reitmeier discloses to provide for measurements. However, Reitmeier does not disclose the use of an ozone sensor. Therefore, a person skilled in the art would not consider Reitmeier. Furthermore, the present independent claims provide for a plurality of sensors, wherein the sensors can be independently heated. None of the cited prior art provides for such a heating means. Thus, even if a person skilled in the art would combine Reitmeier with Allen and Frank and Kashara, which Applicants do not concede, it is unclear which sensors would be heated to a different temperature. Therefore Applicants believe that the cited prior art does not render the independent claims obvious. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

**PTO Form 892**

Applicants would like to bring to the Examiner's attention that certain claims have been rejected under 35 U.S.C. § 103(a) as being unpatentable in view of German Patent DE 19924083 filed by Joachim Frank et al., however, this reference has not been identified on a PTO-Form 892, nor was it a reference submitted by Applicants on a PTO-Form 1449. Applicants respectfully request that German Patent DE 199 24 083 A1 be listed on a PTO-Form 892 in the next action.

**Change of Correspondence Address**

Applicants respectfully request that all papers pertaining to the above-captioned patent application be directed to Customer No. **31625** and all telephone calls should be directed to Andreas Grubert at 512.322.2545.

**Allowable Subject Matter**

Applicants appreciate Examiner's consideration and indication that Claims 20, 29 and 32 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. However, as stated above, Applicants believe that the amended independent claims are allowable in view of the prior art.

**CONCLUSION**

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorney for Applicants



Andreas Grubert  
Limited Recognition No. L0225  
Expires June 30, 2006  
Limited Recognition Under 37 C.F.R. §11.9(b)

**SEND CORRESPONDENCE TO:**

BAKER BOTTS L.L.P.

CUSTOMER ACCOUNT NO. **31625**

512.322.2545

512.322.8383 (fax)

Date: October 17, 2005